

REMARKS

Status of the Application

Claims 20-32, 34, 38-43 and 97-143 are pending in the application. Applicants herewith amend claims 20, 24, 28, 98, 101, 105, 112, 116, 120, 130, 133, and 137. The claims are supported by the application as filed and therefore do not add new matter. Accordingly, entry of the amendments is respectfully requested.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claims 20-32, 34, 38-143 under 35 U.S.C. § 102(e) as being anticipated by Hunt. The Examiner's rejections are respectfully traversed.

Each of the pending claims recite "receiving at a computing device at least one order to buy or sell the instrument, the financial instrument related to an item having a plurality of stages of development associated therewith comprising at least one pre-release stage and at least one post-release stage." The Examiner admits at page 2 of the Office Action that Hunt fails to teach this feature. Accordingly, Hunt does not anticipate the claims pending in the present application. Reconsideration and withdrawal of the rejection is requested.

Claim Rejections – 35 U.S.C. § 103

Claims 20-32, 34, 38-143 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,724,524 (hereinafter "Hunt") in view of U.S. Patent No. 6,088,685 (hereinafter "Kiron"). The Examiner's rejections are respectfully traversed.

Independent claims 20, 98, 112, and 130

Independent claim 20 is directed toward a method of trading a financial instrument that includes the step of “determining a price for the instrument based at least in part on the item being in a pre-release development stage at a time of a trade.” Applicants submit that none of the references cited by the Examiner teach this feature.

The Examiner asserts that Kiron teaches this feature at col. 8, lines 11-51 and at col. 7, lines 7-24 and at col. 8, lines 11-51. Examiner is mistaken. Kidron discusses generally a “closed end fund of funds”, which invests its assets in targeted open end mutual funds shares. Col. 3, lines 4-10. According to Kidron, the result is a security that replicates the performance of the open ended funds that can be traded without the restriction associated with open ended funds. Col. 3, lines 11-13. At col. 7, lines 7-24, Kiron discusses “valuations on the closed end fund of funds [being] generated ... based upon the market price generated through real-time trading of the relevant closed end fund of funds by market participants.” At col. 8, lines 11-51, Kiron claims electronic data processing methods for pricing the closed end securities (the portfolio) or open ended securities (funds) based on the price and weighting criteria associated with the securities that make up the portfolio or open ended securities. Pricing funds or a portfolios based of the price of the securities that make up the funds and portfolios, respectively, is not the same as nor is it equivalent to determining the price of an instrument that relates to an item based on the item being in a pre-release development stage in accordance with claim 20.

Independent claims 98, 112, and 130 include similar features as claim 20 and are patentable for at least the same reasons.

Dependent claims

Claim 21 further recites “wherein the item comprises a movie, and the price of the instrument in a pre-release stage is based at least in part on estimated box office revenues of the movie and in a release stage the price of the instrument is based at least in part on actual box office revenues of the movie.” The Examiner asserts that Hunt discusses this feature at col. 5, lines 15-40, col. 14, lines 10-25, col. 3, lines 55-65, and col. 5, lines 17-40. Examiner is mistaken. Hunt does not mention a movie or any similar item and therefore estimated or actual box office revenue therefrom.

Claims 28, 97, 99, 105, 113, 120, 129, 131, and 137 include similar features as that of claim 21 and are patentable for the same reason.

The rejection proffered by the Examiner for each of the remaining dependent claims is merely a copy of the rejection for claim 21 without any regard to the limitations of the claims. Specifically, the Examiner copies the Hunt citation (col. 5, lines 15-40, col. 14, lines 10-25, col. 3, lines 55-65, and col. 5, lines 17-40) in rejecting each of the pending dependent claims even though the disclosures are not even close to the features of the claims that are allegedly disclosed by Hunt. For example, claim 31 recites determining a buy-sell imbalance and computing a price increase for the instrument therefrom. Hunt is simply silent with regard to this feature as well as the features of the other dependent claims. Applicants request that the Examiner examine this as well as the other applications in a timely and complete manner.

Conclusion

Applicants submit that the pending claims are in a condition for allowance. Reconsideration and allowance are respectfully solicited.

The Examiner is invited to contact the Applicants' undersigned representative at 212-829-5407 to expedite prosecution.

Respectfully submitted,

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Date

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